

**NH Department of Environmental Services (DES)
Response to Public Comment and List of Substantive Changes for
Section 401 Water Quality Certification (WQC # 2007-005)
Ragged Mountain Phase I Development
11/4/09**

On September 11, 2009, the New Hampshire Department of Environmental Services (DES) issued a draft Section 401 Water Quality Certification for public comment for the Ragged Mountain Phase I development in Danbury, New Hampshire (WQC # 2007-005). The public comment period ended on October 16, 2009. The only comments received were from the Applicant's engineering consultant, Horizons Engineering. The following represents DES' response to comments. To facilitate review, comments are numbered (i.e., Comment A1, Comment B2, etc.) with DES' response provided immediately below each comment in bold, italicized font. Immediately following the response to comments is a list of substantive changes made to the draft 401 Certification.

A. Comments from Horizons Engineering

Comment A1: Section E-9 (general) – This section requires that the project owner prepare, and receive NHDES approval for, a water withdrawal impact assessment report, operations and monitoring plan, and water conservation plan prior to “withdrawing water from Bog Pond”. Ragged Mountain operated a temporary Bog Pond withdrawal during the 2008/2009 ski season under the authority of NHDES Wetlands Permit 2007-02879 and an operations agreement with New Hampshire Fish and Game. NHDES and Fish and Game subsequently extended the permit and agreement to allow operation of the withdrawal during the upcoming 2009/2010 ski season. As the permanent withdrawal will be constructed in the summer of 2010 at the earliest, Ragged Mountain requests that NHDES revised the 401 WQC to require approval of the impact assessment report, operations and maintenance plan, and water conservation plans prior to commencing construction of permanent withdrawal infrastructure. Mr Steven Weber at NH Fish & Game has indicated he is comfortable with Ragged Mountain operating the temporary Bog Pond withdrawal under the current approved plan. We encourage NHDES to contact Mr. Weber to confirm this.

DES Response: Agreed. Condition E-5 was added to clarify that operation of the existing temporary Bog Pond withdrawal in accordance with Wetlands Permit 2007-02879 can continue until the Wetlands permit expires or until the permanent withdrawal infrastructure is constructed, whichever is first. The title of Condition E-10 (formerly E-9) was revised to clarify that the conditions apply to the proposed “permanent” withdrawal and not to the existing temporary Bog Pond withdrawal referred to in Wetlands Permit 2007-02879. The deadline for submittal of the various plans in condition E-9 (now E-10) was changed from “Prior to withdrawing from Bog Pond”, to “Prior to construction of any portion of Phase I (which includes the permanent Bog Pond withdrawal pipe and associated infrastructure for snowmaking)”. A discussion of Wetlands Permit 2007-02879 was added to the Facts and Law (section C-27) and Findings (section D-22).

Comment A2: Section E-9 h– This section refers to the use of the recently installed Cockermouth River gaging station as an analogous site for estimating flows through Bog Pond. However, Ragged Mountain is concerned about the complexity of the flow monitoring methodology and the reliance on a single off-site gaging station with little historic data. Specifically, during several periods in the past a similar gaging station on the Smith River experienced significant gaps in data collection due to ice interference. If a similar data gap were to occur at the Cockermouth gage there is no alternate method proposed for gaging flow. As such Ragged Mountain requests that NHDES include language in the WQC outlining the proposed monitoring method as a guidance, but deferring establishment of a final method until preparation of the operations and monitoring plan. This will allow the use of additional data from this winter's operation to refine the monitoring and withdrawal program and also allow incorporation of adequate redundancy to ensure that the withdrawal can continue to operate when adequate flow is available.

DES Response: Agreed. To provide the Applicant some flexibility and an opportunity to offer alternatives that are essentially equivalent and at least as protective as the conditions stipulated in the 401 Certification, the following was done: The following was added to the beginning of Section E “Unless otherwise authorized by DES the Applicant shall comply with the following conditions”; the beginning of Condition E-10 h (formerly E-9 h) was revised from “Minimum flows over the Bog Pond Dam shall be in accordance with...” to “ Unless otherwise authorized by DES, minimum flows over the Bog Pond Dam shall be in accordance with ...”; and the last sentence of the first sentence in condition E-11(formerly E-10) was revised from “The plan shall include...”, to “Unless otherwise authorized by DES, the plan shall include...”.

List of Substantive Changes Made to Draft 401 Certification

| Section | Description of Substantive Changes Made to Draft |
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| Facts and Law C-27 | Added a new C-27 regarding Wetlands Permit 2007-02879 and revised numbering for all subsequent Facts and Law sections. |
| Facts and Law C-28 | Revised to acknowledge issuance of the Alteration of Terrain Permit in August 2009. |
| Finding D-22 | <p>Added paragraph regarding the existing temporary withdrawal from Bog Pond for snowmaking in accordance with Wetlands Permit 2007-02879</p> <p>Revised several sentences to clarify that the discussion referred to the permanent Bog Pond withdrawal and not the existing temporary withdrawal.</p> |
| Condition E-5 | <p>Added a new condition E-5 to clarify that operation of the existing temporary Bog Pond withdrawal pipe for snowmaking shall be in accordance with Wetlands Permit number 2007-02879 until the wetlands permit expires or until a permanent Bog Pond withdrawal pipe and associated infrastructure is constructed, whichever is first.</p> <p>Revised numbering for all subsequent Conditions.</p> |
| Condition E-10 (formerly Condition E-9) | <p>The title was revised to clarify that the conditions apply to the proposed “permanent” withdrawal and not to the existing temporary Bog Pond withdrawal referred to in Wetlands Permit 2007-02879. The deadline for submittal of the various plans in condition E-10 a through d was changed from “Prior to withdrawing from Bog Pond”, to “Prior to construction of any portion of Phase I (which includes the permanent Bog Pond withdrawal pipe and associated infrastructure for snowmaking)”.</p> <p>The beginning of Condition E-10 h was revised from “Minimum flows over the Bog Pond Dam shall be in accordance with...” to “ Unless otherwise authorized by DES, minimum flows over the Bog Pond Dam shall be in accordance with ...”.</p> |
| Condition E-11 (formerly Condition E-10) | The last sentence of the first sentence was revised from “The plan shall include...”, to “Unless otherwise authorized by DES, the plan shall include...”. |